

**MICHAEL G. O'NEILL**

ATTORNEY AT LAW

*By ECF*

April 16, 2019

Hon. Kevin M. Fox  
United States Magistrate Judge  
40 Centre Street  
New York, NY 10007

Re: Passante v. Makkos, 17-cv-8043

Dear Judge Fox:

I represent the plaintiffs. I am writing to request a Rule 37.2 conference in order to assist plaintiffs in obtaining critical discovery that defendants have agreed to provide, but have failed to do so.

Earlier in this litigation, defendants produced in pdf form a summary of the restaurant's tip sheets for the relevant time period. The pdf document is 1446 pages. This summary was originally created as a spreadsheet. I have requested that the spreadsheet itself be produced. It is necessary to perform sorts, calculations and other data functions with the information in the spreadsheet, and this cannot be done from a pdf document. Without the spreadsheet itself, it would be necessary to enter 1446 pages of data by hand into a spreadsheet, which would take time and be a significant expense.

Rule 34 permits a party to request information to be produced in electronic form, and this is exactly what plaintiffs have done. I requested the spreadsheet on March 8, and having received no response, again on March 13. On March 28 counsel for defendants informed me that they "would have everything" for me the following week. That would have been the week ending April 5. My most recent inquiry regarding the status of this production has not been answered.

I appreciate the Court's consideration of the foregoing.

Respectfully yours,

A handwritten signature in blue ink, appearing to read "M O'Neill", is positioned below the "Respectfully yours," text.